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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
Petition for Waiver Filed by)	CC Docket No. 96-45
)	
Santa Rosa Telephone Cooperative, Inc.)	AAD 94-111
)	
Concerning the Definition of "Study Area" Contained in the)	
Part 36 Appendix-Glossary of the Commission's Rules)	

To: Chief, Common Carrier Bureau

**REQUEST FOR REMOVAL OF WAIVER CONDITION
CONSISTENT WITH COMMISSION POLICY**

Santa Rosa Telephone Cooperative, Inc. ("Santa Rosa") submits this request for the removal of the "cap" on the Universal Service Fund ("USF") cost allocation support payments established by the Commission's Order adopted August 4, 1995, with respect to Santa Rosa's study area.¹ The Order authorized the transfer of local exchange facilities consisting of one exchange serving 630 access lines into Santa Rosa's existing study area. As a condition to the grant of study area waiver, the Order imposed a limitation or "cap" on USF disbursements to the Santa Rosa study area of \$469,839 per annum. Consistent with the overarching Commission policy conclusions now established by the Memorandum Opinion and Order on Reconsideration, released September 9, 1999,² Santa Rosa requests that its individual USF cap be removed as of

¹ Memorandum Opinion and Order, AAD 94-111, 11 FCC Rcd 3245 (1995) ("Order"). An Application for Review, filed June 7, 1999, is pending at the Commission concerning the application of the Commission's USF rules with respect to situations involving acquisitions and sales.

² Memorandum Opinion and Order on Reconsideration, AAD Nos. 93-93, 95-72, 95-30, 97-21, 97-23, 97-117, 98-44, 98-53, DA 99-1845, released September 9, 1999 ("Cap Removal Order").

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January 1, 2000.³

Santa Rosa expects that many other similarly-situated companies will be seeking removal of their individual USF caps consistent with the Bureau's newly articulated policy conclusions. In order to avoid the administrative burden of repeatedly applying its new policy to a multitude of almost identical requests, Santa Rosa respectfully suggests that the Commission simply clarify, on its own motion, its policy by lifting the 57 remaining USF caps.

In the absence of this clarification, Santa Rosa respectfully requests expedited action in light of the consistency of this request with the recent policy conclusions and to accommodate the completion of the USF administration prior to January 1, 2000. In support thereof, Santa Rosa submits the following:

I. Background

On August 5, 1994, Santa Rosa and GTE Southwest Incorporated ("GTE") filed a joint petition for waiver of the frozen study area boundaries. On August 7, 1995, the FCC released its Order authorizing the removal of one exchange from the GTE Texas study area and allowing Santa Rosa to consolidate the acquired exchange within its existing Texas study area, subject to the condition that, absent explicit approval from the Bureau, the annual USF support provided to the existing study area would not exceed the amount for which that study area was qualified in August of 1995.⁴ The National Exchange Carrier Association ("NECA") was ordered not to

³ Although this Request references an effective date of January 1, 2000, Santa Rosa does not waive its right to raise issues in the future with respect to the applicability of the Commission's policy or rules to prior periods beginning May 8, 1997.

⁴ Order at ¶ 9.

distribute USF payments exceeding the limitation.

Although Santa Rosa was aware in 1995 that the facilities to be purchased were substandard, and that the Bureau would likely impose a limit on USF recovery, Santa Rosa, nevertheless, fully expected that a rational network cost recovery application would be ultimately resolved consistent with the public interest.⁵ Santa Rosa believed that rational cost recovery would be possible by removal of the limit or the implementation of a new USF plan, under which the reasonable high costs would be addressed. The Santa Rosa study area's 2000 USF receipts, based on data forwarded from the Universal Service Administrative Corporation ("USAC") to the Commission on October 1, 1999, would be \$501,481.97. Grant of this request will allow Santa Rosa to recover fully the USF payments related to the costs incurred in providing service to rural Texas.

II. Removal of Santa Rosa's Cap is Consistent with Established Commission Policy

On September 9, 1999, the Commission issued its Cap Removal Order, addressing petitions for waiver and reconsideration of the USF conditions applied to 32 study areas. While the Commission noted its policy of monitoring USF impact on carriers involved in study area changes and capping carriers at some estimate of post-upgrade costs, the Commission correctly concluded that limiting the duration of those caps is appropriate and in the public interest.⁶ Accordingly, the Commission granted petitioners' requests to lift the individual caps placed on

⁵ Since the acquisition in 1995, Santa Rosa has installed new digital central office facilities, implemented equal access, deployed interoffice fiber transmission and backbone fiber facilities, and upgraded customers to single party service. Santa Rosa has invested approximately \$3,747,297 in its network over the past four years.

⁶ Cap Removal Order at ¶ 9.

their high cost loop support on a going-forward basis.⁷ As of January 1, 2000, the high cost loop support for the 32 study areas will then be based upon the average cost of all their lines.

The Commission acknowledged that “caps of unlimited duration may hinder petitioners’ incentive and ability to extend service to previously unserved areas, as well as to upgrade service to their existing customers.”⁸ The Commission also determined that “limiting the petitioners to the high cost loop support estimated in their original petitions, in perpetuity, is not necessary to accomplish the [Commission’s] policies . . .” The Commission “concluded that . . . the individual caps placed on the carriers’ high cost loop support have served their purpose . . .”⁹ The Commission also recognized correctly that lifting the caps on petitioners’ high cost support will increase the affected LECs’ incentives and ability to extend service to previously unserved areas and upgrade their networks.”¹⁰

Santa Rosa’s conditions are effectively identical to those petitioners addressed in the Cap Removal Order. Therefore, removal of Santa Rosa’s individual USF cap is both warranted by, and consistent with, the Commission’s conclusions and policy enunciated in the Cap Removal Order. Like the petitioners addressed in that order, Santa Rosa purchased an exchange several years ago and, in conjunction with its request for study area waiver, provided a reasonable

⁷ Cap Removal Order at ¶ 10.

⁸ Id.

⁹ Id.

¹⁰ Cap Removal Order at ¶ 10. See also Federal-State Joint Board on Universal Service: Promoting Development and Subscribership in Unserved Areas, Including Tribal and Insular Areas, Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 99-204 (rel. Sept. 3, 1999).

estimate of the costs to upgrade the subject facilities for the provision of basic telephone service to existing and new customers. Following the grant of study area waiver, Santa Rosa proceeded to deploy service and upgrade the facilities according to its plans. Continuing to limit Santa Rosa to the high cost loop support estimated in its original petition is not necessary to accomplish the Commission's policies. Further, continued application of the individual cap imposed in August of 1995 will hinder Santa Rosa's incentive to continue to invest in advanced services networks and to upgrade existing service, and would jeopardize Santa Rosa's ability to maintain reasonably comparable rates for modern services.

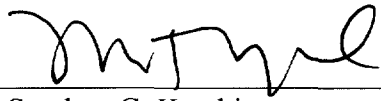
III. Conclusion

Consistent with the Commission's policy established in its Cap Removal Order, Santa Rosa requests that the individual USF cap established by the Commission's Order be removed as of January 1, 2000. The Santa Rosa study area's 2000 USF receipts, based on data forwarded from USAC to the Commission on October 1, 1999, would be \$501,481.97. Accordingly, Santa Rosa requests that the Commission lift the individual cap placed on its high cost loop support on a going-forward basis so that, as of January 1, 2000, Santa Rosa's high cost loop support payments will be based upon the average cost of all its lines. Adequate USF funding is necessary to allow Santa Rosa to continue to maintain and upgrade its facilities for the provision of universal service to its rural Texas study area. Expedited grant of this request will serve the

public interest by ensuring that Santa Rosa receives adequate universal service funding to recover the costs of its investment and thereby meet its current and future service requirements.

Respectfully submitted,

Santa Rosa Telephone Cooperative, Inc.

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November 5, 1999

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Request for Removal of Waiver Condition Consistent with Commission Policy" of Santa Rosa Telephone Cooperative, Inc. was served on this 5th day of November, 1999 by hand delivery to the following parties:



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